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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 165,034	10 01 1998	RICHARD J. NEELY	KCX-85-1319	7380

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EXAMINER

PIERCE, JEREMY R

ART UNIT	PAPER NUMBER
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1771

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DATE MAILED: 12 10 2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.

09 165.034

Applicant(s)

NEELY ET AL

Office Action Summary

Examiner

Jeremy R. Pierce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a); in no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-16, 27-50 and 59-76 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-16, 27-50 and 59-76 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other

DETAILED ACTION

Response to Amendment

1. Amendment D has been filed on November 20, 2002 as Paper No. 23. Claims 10, 12, and 35 have been amended. New claims 74-76 have been added. Claims 1-7, 9-16, 27-50, and 59-76 are currently pending.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1, 9, 13, 15, 27-29, 32, 35, 39-42, 44, 48-50, 59-61, and 74-76 are rejected under 35 U.S.C. 102(b) as being anticipated by Alemany et al. (U.S. Patent No. 4,834,735).

Alemany et al. teach an absorbent article wherein the deposition region of its absorbent member comprises a storage zone and an acquisition zone having a lower average density and a lower average basis weight per unit area than the storage zone (Abstract). The ratio of the density between the storage zone and acquisition zone is about or greater than 2:1 (column 2, lines 52-60). The web is compressed in the manufacturing process when it is calendared in a roll to effect densifying the storage zone (column 18, lines 3-12). With regard to claim 9, Alemany discloses the basis weights to be between 0.02 and 0.186 g/cm² (column 13, line 66) for the storage zone and between 0.015 and 0.1 g/cm² for the acquisition zone (column 14, line 49), and 1

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g/cm² is equal to about 295 oz/yd². With regard to claim 13, Alemany et al. disclose using polyester fibers (column 8, line 9). With regard to claim 15, Alemany et al. make the web by airlaying (column 18, line 4). With regard to claims 35 and 40, Alemany et al. disclose the backsheet can be polyethylene film (column 5, lines 26-27). With regard to claim 39, the topsheet can comprise a spunbonded web (column 5, line 12), which could be considered the third layer. With regard to claim 41, Alemany et al. disclose the topsheet can be non-woven (column 5, line 11). With regard to claims 42 and 44, Alemany et al. disclose the article can be a disposable diaper or personal care product (column 1, lines 52-53). With regard to claims 74-76, the nonwoven web would consist essentially of polymeric fibers, when one of the polymeric fibers discloses as useful for the absorbent member is used (column 8, lines 3-15). Additional materials added to the web, such as absorbent gelling material (column 8, lines 31-36), would not interfere with the function of the nonwoven web as an absorbent fabric. Furthermore, the additional gelling absorbent material may be in the form of a polymeric fiber (column 8, line 67).

Claim Rejections - 35 USC § 103

4. Claims 12, 43, 62, 64-66, 68-70, 72, and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alemany et al.

With regard to claim 12, Alemany et al. disclose using pulp fibers and polymeric fibers (column 8, lines 9-14). Although Alemany et al. do not cite using both together in the web, it would have been obvious to a person skilled in the art to use both pulp and polymeric fibers simultaneously in the web, since it has been held to be within the

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general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. With regard to claim 43, Alemany et al. do not disclose the articles useful as a wiper product. It would have been obvious to one skilled in the art to use the absorbent material disclosed by Alemany et al. as a wiper product, since it is well known within the art that absorbent articles useful in personal care products and diapers can also be employed as a wiper product. With regard to claims 62, 64-66, 68-70, 72, and 73, it would have been obvious to one skilled in the art to include a through-air bonding step in the manufacture of the absorbent product of Alemany et al., since through-air bonding is a well known process in the art of diaper manufacture that increases the strength of the web.

5. Claims 2, 7, 10, 16, 30, 31, 34, 38, 46, 47, 62, 63, 65-67, 69-71, and 73 rejected under 35 U.S.C. 103(a) as being unpatentable over Alemany et al. in view of Newkirk et al. (U.S. Patent No. 5,143,779).

With regard to claims 2, 34, and 38, Alemany et al. do not teach the fabric to comprise a spunbonded web. Newkirk et al. disclose the absorbent layer for disposable diapers can be made from a spunbonded web (column 4, line 33). It would have been obvious to one skilled in the art to manufacture the absorbent web of Alemany et al. by spunbonding rather than air-laying, since such practice is well known as an alternative in making an absorbent web. With regard to claims 7 and 30, Newkirk et al. disclose using polypropylene (column 4, line 67). With regard to claims 10, 16, 31, 46, and 47 Newkirk et al. teach using crimped fibers offer increased loft in the nonwoven web and

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bicomponent fibers are easily crimpable (column 4, lines 57-62). With regard to claims 62, 65, 66, 69, 70, and 73, Newkirk et al. further teach through air bonding followed by compressing as a process known in the art (Abstract). With regard to claims 63, 67, and 71, Newkirk et al. teach pattern bonding offers an attractive balance of loft, softness, and strength (column 6, lines 10-18).

6. Claims 3-6, 11, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alemany et al. in view of Karami (U.S. Patent No. 4,027,672).

Alemany et al. do not disclose the lower basis weight area and the higher basis weight area to form a repeating pattern of alternating columns. However, this pattern is already known in the art of absorbent webs in diapers. Karami teaches various patterns of densified regions in a nonwoven absorbent pad, including alternating columns (Figure 8) and where the first area surrounds the second area (Figure 5). It would have been obvious to one skilled in the art to use the densified patterns disclosed by Karami in the absorbent pad of Alemany et al. in order to derive the absorbing and transporting properties in the patterned web taught by Karami. With regard to claim 6, it would have been obvious to one skilled in the art to include alternating rows of densified regions as well as alternating columns in order to further increase the variance in absorbing and transporting properties of the web. With regard to claim 11, Karami shows the densified and undensified portions to exist in a 1:1 ratio (Figure 8).

7. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alemany et al. in view of Karami and Newkirk et al.

The alternating columns feature stands rejected as cited above in view of Karami and the polypropylene fiber features stands rejected as cited above in view of Newkirk et al.

8. Claims 14, 36, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alemany et al. in view of Morman (U.S. Patent No. 5,611,879).

Alemany et al. do not disclose the web to be spunbond or meltblown. In the diaper art, absorbent cores are frequently made from spunbonded or meltblown webs, as shown by Morman (column 4, lines 9-14). It would have been obvious to one skilled in the art to make the absorbent core of Alemany et al. out of spunbonded or meltblown webs, as a simple matter of choice of manufacturing, as taught by Morman.

Response to Arguments

9. Applicant's arguments filed in Paper No. 23 have been fully considered but they are not persuasive.

10. Applicant argues that Alemany et al. do not teach the claimed invention because the reference fails to disclose or suggest thermally bonding the non-woven material. However, Alemany et al. teach the non-woven material is made by calendaring it in a fixed-gap calendar roll. In the art of manufacturing non-woven fabrics, calendaring is conventionally done under heat and pressure to create a thermal bond among the fibers. The fabric of Alemany et al. is thermally bonded because the reference does not disclose the calendaring to be non-conventional. If there were no heat in the

calendaring, the nonwoven fabric of Alemany et al. would not maintain the uniform thickness (column 18, line 12) after being calendared.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Pierce whose telephone number is (703) 605-4243. The examiner can normally be reached on Monday-Thursday 7-4:30 and alternate Fridays 7-4.

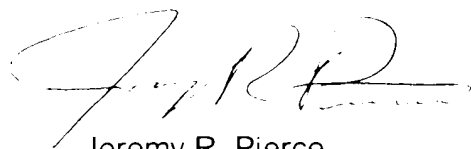
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Jeremy R. Pierce
Examiner
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December 3, 2002

